



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

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TO: Member, Public Disclosure Commission

FROM: Doug Ellis, Assistant Director

DATE: August 3, 2005

SUBJECT: Report on 45-Day Letter Submitted by Richard Pope against Keep Washington Rolling, the Puget Sound Regional Council, Port of Everett, Port of Seattle and Port of Tacoma.

On July 1, 2005, Richard Pope filed a citizen's action (45-day letter) with the Office of the Attorney General and with the County Prosecutor's Offices in King, Kitsap, Pierce, San Juan, Snohomish and Thurston counties alleging that the Puget Sound Regional Council, Port of Everett, Port of Seattle and Port of Tacoma violated RCW 42.17.130 by using or authorizing the use of public facilities for the purpose of opposing Initiative 912. It was further suggested in the complaint that Keep Washington Rolling (KWR) may have falsely claimed support or endorsement of the public agencies by posting their names on its website.* On July 6, 2005 the Attorney General's Office requested PDC staff to investigate the complaint.

The investigation centered on:

- Public agency responses to the complaint allegations,
- Review of the identified public agencies' e-mail in 2005 that referenced Initiative 912 or Keep Washington Rolling,
- Documentation of any meetings by the identified public agencies where the subject of Initiative 912 or Keep Washington Rolling was discussed, and
- Interviews under oath with representatives of Keep Washington Rolling and representatives of their public relations firm Pacific Public Affairs.

Keep Washington Rolling

As part of the investigation to determine if the identified public agencies violated RCW 42.17.130, staff conducted an interview under oath with KWR consultant and Vice-President of Government Affairs for the Greater Seattle Chamber of Commerce, Charles Knutson, who stated *"None of the agencies you referenced were confirmed supporters of, or contributors to the Keep Washington Rolling effort. These agencies were mistakenly posted on the Keep Washington Rolling website by our campaign consultants at Pacific Public Affairs."*

* Keep Washington Rolling is a political committee formed on June 1, 2005 to oppose Initiative 912 and could not have violated RCW 42.17.530(1)(c) since this statute applies to a false claim of support or endorsement regarding a candidate for public office. No other provision of chapter 42.17 RCW relates to the endorsement issue raised by Mr. Pope.

Knutson stated that he provided Pacific Public Affairs (KWR media consultants and webmaster) with a number of lists including entities and individuals who had expressed an interest in transportation issues. He said he provided PPA with the lists of organizations that publicly supported a gas tax increase in the 2005 legislative session as a starting point for developing a list of confirmed KWR supporters.

One of those lists, the letterhead from the Transportation Partnership, was then used in its entirety by Pacific Public Affairs to produce the names that appeared on the KWR website.

Transportation Partnership is a coalition of business, labor, governmental agencies and officials, and environmental representatives. The purpose of Transportation Partnership is to advocate for solutions to state and regional transportation needs and meet to discuss transportation issues/projects and how to fund them.

The KWR webpage listing members of the Transportation Partnership -- including the Puget Sound Regional Council, Port of Everett, Port of Seattle and Port of Tacoma --was available for ten days between June 21st and June 30th 2005.

Knutson and representatives from Pacific Public Affairs stated in an interview under oath that they had not been contacted by, and they did not themselves contact or solicit an endorsement or support for KWR from, the Puget Sound Regional Council, Port of Everett, Port of Seattle and Port of Tacoma.

Port of Everett

In response to the allegations listed in the 45-day letter, the Port of Everett's Deputy Director Ed Paskovskis stated that the Port had no part in endorsing the Keep Washington Rolling agenda nor did it authorize the use of its name.

Paskovskis stated that the Port of Everett Commission has not addressed or discussed either Initiative 912 or Keep Washington Rolling.

The Port of Everett, at the request of Commission staff, provided 42 agency e-mails that mentioned Initiative 912 or Keep Washington Rolling. None of the emails made any reference to the Port of Everett supporting or endorsing KWR, or opposing Initiative 912.

Port of Seattle

In response to the allegations listed in the 45-day letter, Port of Seattle General Counsel Craig W. Watson stated *"The Port of Seattle unequivocally denies that it authorized the use of its name by any political action committee involved with Initiative 912."*

The Port of Seattle, at the request of Commission staff, provided 70 agency e-mails that mentioned Initiative 912 or Keep Washington Rolling. None of the e-mails made any reference to the Port of Seattle supporting or endorsing KWR, or opposing Initiative 912.

Port of Tacoma

In response to the allegations listed in the 45-day letter, Assistant to the Port of Tacoma Executive Director Charla Skaggs stated that the Port of Tacoma did not authorize or approve KWR to include its name on the KWR website, that no Port of Tacoma Commissioner or staff persons had endorsed or been requested to endorse Initiative 912 and the Port of Tacoma Commission had no meetings that addressed or discussed Keep Washington Rolling or Initiative 912.

The Port of Tacoma, at the request of Commission staff, provided 55 agency e-mails that mentioned Initiative 912 or Keep Washington Rolling. None of the e-mails made any reference to the Port of Tacoma supporting or endorsing KWR, or opposing Initiative 912.

Puget Sound Regional Council

In response to the allegations listed in the 45-day letter, PSRC provided minutes of two meetings in which Initiative 912 or Keep Washington Rolling was either addressed or discussed. PSRC did not take a position on the proposed ballot measure nor endorse the efforts of KWR at either meeting.

Robin Rock, General Counsel and Chief Administrative Officer for PSRC, stated *“No one employed by or acting on behalf of the agency authorized Keep Washington Rolling to include PSRC on their website, nor had knowledge that PSRC was erroneously listed...PSRC has not taken a position on the proposed ballot measure and is not a member of any political committee.”*

The Puget Sound Regional Council, at the request of Commission staff, provided 33 agency e-mails that mentioned Initiative 912 or Keep Washington Rolling. A majority of e-mails addressed the complaint by Mr. Pope and others were informational in nature. None of the e-mails made any reference to the Puget Sound Regional Council supporting or endorsing KWR, or opposing Initiative 912.

Washington State Association of Counties

In light of *Telford v. Thurston Cy. Bd. Of Comm'rs*, where the Washington Court of Appeals held that the Washington State Association of Counties (WSAC) is the functional equivalent of a public agency for purposes of the Public Disclosure Act, staff investigated the circumstances surrounding WSAC being listed on KWR's website in opposition to Initiative 912.

WSAC Assistant Executive Director Paul Parker stated that any reference to WSAC regarding this ballot measure (Initiative 912) was without WSAC's knowledge or consent. Parker went on to state that *“WSAC does not take positions on any ballot measure and has not taken a position in this matter.”*

WSAC, at the request of Commission staff, provided 17 agency e-mails that mentioned Initiative 912 or Keep Washington Rolling. None of the emails made any reference to WSAC supporting or endorsing KWR, or opposing Initiative 912.

Staff Recommendation: The allegations have not been substantiated and merit dismissal.

No evidence was found that officials or employees of

- The Port of Everett,
- The Port of Seattle,
- The Port of Tacoma , or
- The Puget Sound Regional Council

violated RCW 42.17.130 by using or authorizing the use of public facilities to oppose Initiative 912 as alleged.